

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

CARLOS NUNEZ, *et al.*, §
§
Plaintiffs, §
VS. § CIVIL ACTION NO. C-08-258
§
OCWEN LOAN SERVICING, LLC, *et al.*, §
§
Defendants. §

ORDER

On July 2, 2009, the Court held a Show Cause Hearing in the above-styled action to determine whether dismissal of this action is appropriate due to the failure of Plaintiffs Carlos Nunez and Nora Nunez to cooperate in the discovery process. Although the Court ordered both Plaintiffs to appear at the Show Cause Hearing (D.E. 20), only Ms. Nunez appeared. At the hearing, no satisfactory reason was given for Plaintiffs' failure to respond to discovery requests, including their failure to appear for noticed depositions.

Plaintiffs' failure over the previous eight months to participate in the discovery process is not attributable to Plaintiffs' counsel. Rather, Plaintiffs left their local residence to seek employment out-of-state and failed to provide counsel with necessary contact information. Counsel was therefore unable to adequately inform Plaintiffs about the discovery process.

At the Show Cause Hearing, the Court provided Plaintiffs with one further opportunity to participate in discovery. The Court ORDERED as follows:

- (1) Plaintiffs shall appear for depositions on **Thursday, July 16, 2009 at 11:00 a.m. at the Law Office of Vaughn Loran Westheimer**, 5440 Everhart Rd., Suite 8, Corpus Christi, TX 78411.
- (2) Plaintiffs are ordered to bring to the depositions all documents responsive to the previously issued requests for production as well as any documents responsive to any subpoenas *duces tecum*.

- (3) Plaintiffs are deemed to have waived all grounds for objecting to interrogatories and requests for production that were served by Defendants on October 21, 2008, as the time for filing objections has now passed. Fed. R. Civ. P. 33(b)(4).
- (4) Plaintiffs shall comply with any and all additional subpoenas *duces tecum* issued by Defendants. Any additional subpoenas *duces tecum* shall be served on counsel of record for Plaintiffs, Vaughn Loran Westheimer.
- (5) The deadline for filing dispositive motions is **Friday, August 14, 2009**. The deadline for filing responsive motions is **Friday, August 21, 2009**.
- (6) The original and one copy of the Parties' joint pretrial order shall be filed no later than **Friday, August 28, 2009 BY 3:00 p.m.**

The Court may consider sanctions, including dismissal of this action, if Plaintiffs fail to fully participate in the discovery process or fail to comply with all Orders of this Court.

SIGNED and ORDERED this 6th day of July, 2009.



Janis Graham Jack
United States District Judge